

ALERT: Governor Kemp Issues Statewide Order

April 2, 2020

Earlier this evening, Governor Kemp released an Executive Order instructing all Georgians and visitors to Georgia to Shelter in Place in order to slow the spread of the novel coronavirus (COVID-19). **This order takes effect on Friday, April 3, 2020 at 6 p.m.**, and includes several provisions that are applicable to GADA members, their employees and customers.

Dealers are encouraged to review this Order and attachments in their entirety. [View Executive Order](#) When doing so, please consider how your dealership can best comply with the terms of this Order, including with respect to all dealership employees, customers and facilities.

Unlike other states, this Order does not distinguish between Essential and Non-Essential Businesses. Instead, it distinguishes between Critical and Non-Critical Infrastructure. To draw that distinction, the Order incorporates an advisory memorandum recently published by the U.S. Department of Homeland Security.

Critical Infrastructure operations may continue to use in-person operations, but must implement at least sixteen (16) measures designed to mitigate the exposure and spread of COVID-19 among the workforce. This list of sixteen (16) virus-prevention measures is found in [Attachment A](#) of the Order.

According to the Order, the following activities are considered Critical Infrastructure:

- "automotive repair, maintenance, and transportation equipment manufacturing and distribution facilities (including those who repair and maintain electric vehicle charging stations)"

- "workers critical to rental and leasing of vehicles and equipment that facilitate continuity of operations for essential workforces and other essential travel"
- "employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels...and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers"
- "workers who are needed to provide, process and maintain systems for processing, verification, and recording of financial transactions and services, including payment, clearing, and settlement; wholesale funding; insurance services; consumer and commercial lending; and capital markets activities"
- "workers who are needed to maintain orderly market operations to ensure the continuity of financial transactions and services"
- "workers who are needed to provide business, commercial, and consumer access to bank and non-bank financial services and lending services, including... lending and money transactions..."
- "workers providing electric point of sale support personnel for essential businesses and workers"
- "those suppliers which provide essential goods and services for the critical infrastructure workforce..."

Several operations of a typical franchise car or truck dealership meet this definition, including service, warranty, recall, parts, body shop, loaner vehicle operations and those employees who process payments for those transactions. Also included are services relating to the leasing of vehicles as well as those who assist in processing payment or arranging financing for such transactions. As a result, these operations may remain open so long as dealerships implement the sixteen (16) measures designed to mitigate the exposure and spread of COVID-19 among the workforce (See [Attachment A](#)).

What about sales?

Although the Order permits leasing and renting of vehicles, it does not specifically address the sale of vehicles. Certainly, arguments can be made that sales fit within the list of critical infrastructure services listed above. At a minimum, the sales operations of a franchise dealership could be considered non-critical infrastructure and therefore could remain open to the public provided those sales operations comply with the Social Distancing Rule, the "Minimum Basic Operations" rule and the list of twenty

(20) measures designed to stop the spread of the virus. (See [Attachment B](#)).

In addition, the Order allows for businesses and trade organizations to seek clarification from the Georgia Department of Economic Development as to whether any specific business or business activity is Critical Infrastructure. GADA is considering whether to request such clarification from the state.

What about local orders?

Importantly, this Order **overrides** all orders or ordinances of local governments concerning this public health emergency, including the emergency orders and shelter in place ordinances issued by counties and cities in recent weeks. As a result, for purposes of compliance, **your attention should be focused on this Order from Governor Kemp and the attachments** - not any conflicting order of your local government.

What penalties are there for violating this Order?

Violating the Order is a misdemeanor. Officials enforcing this Order must take reasonable steps to provide notice prior to issuing a citation or making arrest. However, state officials may be deputized to close any business, establishment, corporation or organization that fails to comply with this Order.

This Order is set to expire at 11:59 p.m. on Monday, April 13, 2020 but may be extended beyond that date.

